

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 23-00197-CR-W-HFS
)	
VAN CALVIN CALLAHAN, JR.,)	
)	
Defendant.)	

ORDER

Counsel for defendant has filed a motion pursuant to 18 U.S.C. § 4241 for a determination of defendant’s mental capacity to stand trial (Doc. 22), and a supplemental motion in support. (Doc. 26). Both motions were granted by the Honorable W. Brian Gaddy, and defendant was directed to undergo a psychological or psychiatric examination and the report to be filed with the court pursuant to 18 U.S.C. §§ 4241 and 4247(b). Defendant was designated to the Federal Detention Center, Englewood, Colorado, and on January 26, 2024, a report was filed by Forensic Psychologist, Jeremiah Dwyer, Ph.D. (Doc. 28).

After a series of various testing techniques and observations, Dr. Dwyer noted that defendant discontinued participation in the evaluation process and although there was likely some malingering about some of his reported deficits and symptoms, some aspects of defendant’s presentation were consistent with experiencing the residual effects of substance abuse. (Doc. 28, pp. 2, 15). It was also noted during the evaluation that defendant had “virtually

no legal knowledge, to include little understanding of his current legal situation, or even knowledge so basic it is not indicative of factual understanding.” (Id).

Dr. Dwyer opined that there was sufficient reason that defendant was presently not competent to proceed with the case, and recommended placement in a medical center that would be able to offer a more definitive assessment of defendant’s long-term optimal functioning and the likelihood of future competence to stand trial. (Id).

A competency hearing was held on February 29, 2024, all parties were present and stipulated that the court could consider Dr. Dwyer’s report as if he had appeared in person and testified under oath. In a Report and Recommendation dated February 29, 2024, and after conducting an independent review of the record, Judge Gaddy determined that defendant is incompetent to understand the nature and consequences of the proceedings against him and assist properly in his defense. (Doc. 33). Judge Gaddy recommended that the undersigned find that defendant is incompetent to understand the nature and consequences of the court proceedings against him and assist counsel in his defense. (Doc. 33, p.2).

To-date, no objections to the Report and Recommendation have been filed, and the time in which to do so has expired. Thus, the findings and conclusions in the Report and Recommendation (Doc. 33) are ADOPTED by the undersigned.

Further:

THE COURT HEREBY FINDS by a preponderance of the evidence that defendant is presently suffering from a mental disease or defect to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his own defense.

THE COURT HEREBY ORDERS that the defendant is committed to the custody of the Attorney General for hospitalization and treatment in a suitable facility pursuant to 18 U.S.C. § 4241(d), for such a reasonable period of time up to 120 days from the date of this order to determine whether there is a substantial likelihood that in the foreseeable future the defendant will attain the capacity to permit the trial to proceed.

THE COURT FURTHER ORDERS that if it is determined by the director of the facility where the defendant is hospitalized that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the director shall promptly file a certificate to that effect with the clerk of this court.

THE COURT FURTHER ORDERS that upon the filing of such a certificate by the director, counsel for the parties shall immediately notify the court in writing by way of a written status report and shall arrange for a date for the parties to appear in court.

SO ORDERED.

/s/ Howard F. Sachs
HOWARD F. SACHS
United States District Judge

Dated: March 28, 2024
Kansas City, Missouri